

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Robert Hambley, for Himself and, on Behalf of
the Residents of Los Robles Mobilehome Park,

Complainant,

vs.

Hillsboro Properties, a California Limited
Partnership, and the City of Novato,

Defendants.

Case 00-01-017
(Filed January 14, 2000)

Order Instituting Rulemaking on the
Commission's Own Motion to Re-Examine the
Underlying Issues Involved in the Submetering
Discount for Mobile Home Parks and to Stay
D.01-08-040.

Rulemaking 03-03-017
(Filed March 13, 2003)

Order Instituting Investigation on the
Commission's Own Motion to Re-Examine the
Underlying Issues Involved in the Submetering
Discount for Mobile Home Parks and to Stay
D.01-08-040.

Investigation 03-03-018
(Filed March 13, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
INVITING COMMENTS AND REQUIRING INFORMATION**

The intent of Ordering Paragraph 3 of Decision (D.) 01-08-040 is to back
out the effect of the inclusion of the MHP discount in the rent calculations. The

Commission required a recalculation of the rents with the submetered gas and electric receipts removed as an item of income, the total master-meter gas and electric bill removed as an expense item, and an amount representing the common area usage included as an expense item. This had the effect of removing the discount from the rent calculation. The Commission ordered the resulting amounts to be refunded by Hillsboro directly to tenants, but did not purport to alter or invalidate any decision of the City of Novato Rent Control Board. In addition, the Commission found that the discount rates were not constant during the base year (1995).

Inclusion of the discount in the base year calculation increases the authorized increase in the base year NOI due to the change in the consumer price index (CPI). We will call this the CPI increase. For example, if the monthly per tenant discount is \$10 in the base year, and the change in the CPI for the petition year is 5%, the CPI increase is \$0.50 per month for the petition year compared to what it would have been if the discount was not included in the base year. This results in a rent increase of \$0.50 per month.

The tariffed discounts for gas and electricity during the base year (1995) were changed from an amount per customer per billing cycle to an amount per customer per day. However, my review of the tariffs in effect at the time shows that the change was merely a conversion of the amount per billing cycle to an amount per day. This was done by multiplying the amount per billing cycle times 12 (the number of billing cycles per year) and dividing by 364.25 days (this allows for a leap year every four years). As a result, the discounts were constant for the base year (\$0.34300 per tenant per day for electricity, and \$0.34464 per

tenant per day for gas).¹ In order to get the actual discount into the record, I intend to take official notice of the relevant tariff pages, which are attached to this ruling.

The CPIs used in the defendant's rent increase petitions were 152.9 for the 1995 base year, 162.9 for the 1996 petition year, 167.2 for the 1997 petition year, and 173.5 for the 1998 petition year. The increase allowed in the rent calculation, due to inclusion of the discount in the base year net operating income (NOI), would be the escalation of the discount from the base year to the petition year. The escalation of the monthly discount to the petition year is obtained by multiplying the monthly discount by the change in the CPI. This yields discount escalations of \$1.32 per month for the 1996 petition year, \$1.96 per month for the 1997 petition year, and \$2.81 per month for the 1998 petition year. These amounts represent the part CPI increases that should be refunded to tenants.

The authorized increase in the petition year is calculated by adding the CPI increase to the difference between petition year NOI and the base year NOI. The discount has the effect of reducing the electric and gas bill paid by the MHP owner, thereby reducing the expense for electricity and gas. If there is no change in the discount between the petition year and the base year, removing the discount from the base year and petition year NOIs will not effect the change in the NOI from the base year to the petition year. However, that is not the case if the discount changes.

¹ The total annual discount would actually be greater, in the leap year, by one day of the discount. However, this amount has no significant effect on the refund calculation.

Assume that the discount decreased from the base year to the petition year. In that case, removing the discount from the calculation of the base year and petition year NOIs would result in a decrease in the difference between the base year NOI and the petition year NOI, and a corresponding decrease in the authorized rent increase. For example, assume the base year NOI is \$10, and the petition year NOI is \$15. Also assume the discount is \$1 in the base year, and decreases to \$0.50 in the petition year. Without removing the discount, the change in the NOI is \$5 and the rent increase due to that change would be \$5. However, removing the discount raises the base year NOI to \$11, and raises the petition year NOI to \$15.50. The difference in the NOIs is \$4.50 resulting in an increase of \$4.50, or \$0.50 less than the \$5 rent increase. Therefore, in the example, a \$0.50 decrease in the discount results in a \$0.50 reduction in the authorized rent increase.

The electric discount stayed constant at \$0.34300 per tenant per day in the base and petition years. The gas discount was the same in 1995, 1996, and in 1997. However, it decreased from \$0.34464 per tenant per day to \$0.27828 per tenant per day beginning March 1, 1998. Therefore, the average daily discount for 1998 was \$0.28934, or \$0.0553 less than the base year daily discount. As a result, removing the discount from the calculation of the change in the NOI from the base year to the 1998 petition year results in a decrease of \$1.68 per tenant per month. As explained in the example above, this means the authorized 1998 petition year rent increase was too high by \$1.68 per tenant per month.

Decision 01-08-040 disallowed the amount of \$3,251 charged in the 1996 petition year, and \$23,884 in the 1998 petition year. It appears that there were 213 tenants, although some had their rents set by contract. Therefore, the disallowed amount for the 1996 petition year is \$3,251 spread over 213 tenants

for 12 months. This yields \$1.27 per tenant per month. The disallowed amount for the 1998 petition year is \$23,884 spread over 213 tenants for 12 months. This yields \$9.34 per tenant per month.

The above calculations show total monthly refunds per tenant of \$2.59 for the 1996 petition year, \$1.96 for the 1997 petition year, and \$13.83 for the 1998 petition year.

The defendant alleges that rent changes took place beginning with the September rent each year. However, I cannot find this in the record. If this is true, the rents set for the 1996 petition year were charged to tenants from September 1997 through August 1998. Rents set for the 1997 petition year were charged to tenants from September 1998 through August 1999. The rents set for the 1998 petition year were charged to tenants beginning in September 1999. The record does not show the last month the rents set for the 1998 petition year were charged to tenants.

Tenants changed over time, and some tenants rents were set pursuant to contracts. As a result, the record does not show who paid the rents set for the 1996 through 1998 petition years.

Therefore, **IT IS RULED** that:

1. No later than November 10, 2003, parties to Case 00-01-017 shall file and serve: (a) their objections, if any, on taking official notice of the attached tariff pages and (b) their comments on the above calculations of the refunds. In addition, the parties shall state when the rent increases for the 1996, 1997, and 1998 petition years were put into effect, and the last month the 1998 petition year rent increase was in effect.
2. To the extent a party disagrees with the inflation indices, rent increase dates, or calculations set out in this ruling, the party shall indicate the correct

date or amount, and how it was determined or calculated. The party shall also indicate where in the record, or elsewhere, the date, amount or numbers used in any alternative calculation may be found.

3. Reply comments shall be filed and served no later than November 24, 2003.

4. The defendant shall provide a listing of each tenant who paid rent, set by the rent control board, for the 1996, 1997, and 1998 petition years. The listing shall indicate each person's name, and list each month for which the rent was paid. The listing shall continue for all months the rent set based on the 1998 petition year was effective.

5. Pursuant to General Order 66-C, the tenant listing shall be treated as a confidential document, and filed under seal in Case 00-01-017. It shall not be filed in Rulemaking 03-03-017 or Investigation 03-03-018.

6. Filings in response to this ruling, except for the tenant listing, shall be filed and served on parties in Case 00-01-017.

7. Copies of the filings in response to this ruling, except for the tenant listing, shall, upon request, be provided to parties in Rulemaking 03-03-017 and Investigation 03-03-018.

Dated October 16, 2003, at San Francisco, California.

/s/ JEFFREY P. O'DONNELL

Jeffrey P. O'Donnell
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Inviting Comments and Requiring Information on all parties of record in these proceedings or their attorneys of record.

Dated October 16, 2003, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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C.00-01-017 et al. JPO/tcg

[Attachments to C0001017 et al.](#)